

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

TERRANCE LEE TAYLOR,

Plaintiff,

v

WARDEN JOHN PRELESNIK,

Defendant.

Case No. 1:06-cv-898

Hon. Wendell A. Miles

ORDER ON DEFENDANT'S OBJECTIONS TO MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION

This is a civil rights action filed by a Michigan prisoner *pro se* under 42 U.S.C. § 1983. On October 10, 2007, United States Magistrate Judge Ellen S. Carmody issued a Report and Recommendation ("R & R") recommending that the defendant's motion for summary judgment be denied. The defendant has filed timely objections to the R & R. The court has reviewed *de novo* the R & R filed by the United States Magistrate Judge in this action, the objections to the R & R, and the relevant portions of the file. For the reasons to follow, the court adopts the recommendation to deny the motion on the claim for monetary relief, but rejects the recommendation to deny the motion on plaintiff's claim for injunctive relief.

Discussion

Defendant Warden John Prelesnik makes only one objection to the R & R: he asks that

the court reject the portion of the R & R that would allow plaintiff's request for injunctive relief to proceed, insofar as plaintiff has been transferred from the facility where defendant Prelesnik is the Warden.

In Kensu v. Haigh, 87 F.3d 172, 175 (6th Cir.1996), the Sixth Circuit held that a prisoner's claim for declaratory and injunctive relief against certain prison officials became moot once the prisoner was transferred from the prison of which he complained to a different facility. The same principle applies here. Plaintiff does not dispute that since he filed his original complaint, he has been transferred from the Richard A. Handlon Correctional Facility, where defendant Prelesnik is the Warden, to another facility. See Amended Complaint (docket no. 21) at 3 (listing plaintiff's address as the Lakeland Correctional Facility); see also Change of Address (unsigned, docket no. 27) (listing plaintiff's address as the Ionia Maximum Correctional Facility). Therefore, to the extent that plaintiff asks for injunctive relief against defendant Prelesnik, his claim is moot. Thus, this case only concerns plaintiff's request for monetary relief against Prelesnik in his individual capacity.

Conclusion

Defendant Prelesnik does not object to the Magistrate Judge's remaining conclusion that his motion for summary judgment on plaintiff's claim for monetary damages be denied, and the court agrees with this conclusion, insofar as plaintiff has amended his complaint to reflect that he is suing defendant Prelesnik in his individual capacity. Therefore, the court hereby approves and

adopts that aspect of the R & R as the decision of the court. Defendant's motion for summary judgment is therefore **DENIED** as to plaintiff's claim for monetary damages, and **GRANTED** as to plaintiff's claim for injunctive relief.

So ordered this 27th day of November, 2007.

/s/ Wendell A. Miles
Wendell A. Miles, Senior Judge